

Order

Michigan Supreme Court
Lansing, Michigan

September 23, 2016

Robert P. Young, Jr.,
Chief Justice

153311

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PAULETTE HELD,
Plaintiff-Appellee,

v

SC: 153311
COA: 321786
Ingham CC: 13-000241-NO

NORTH SHORE CONDOMINIUM
ASSOCIATION,
Defendant-Appellant,

and

PURE GREEN LAWN AND TREE
PROFESSIONALS, INC.,
Defendant.

On order of the Court, the application for leave to appeal the February 4, 2016 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should now be reviewed by this Court.

ZAHRA, J. (*dissenting*).

I would peremptorily reverse the judgment of the Court of Appeals and remand this case to the Ingham Circuit Court for entry of a judgment in favor of defendant North Shore Condominium Association because the plastic landscape edging over which plaintiff fell was open and obvious. As Judge METER opined in his dissenting opinion, “a picture is worth a thousand words.”¹ The photographs of the area where plaintiff fell indicate that the edging can very clearly be seen curving around the sidewalk, as there

¹ *Held v North Shore Condo Ass’n*, unpublished opinion per curiam of the Court of Appeals, issued February 4, 2016 (Docket No. 321786) (METER, J., dissenting), p 1.

is a distinct color difference between the edging and the mulch. Thus, “an average person with ordinary intelligence would have discovered [the edging] upon casual inspection.”² Sometimes error in an unpublished opinion is so blatant, open, and obvious that it must be corrected to maintain clarity of the law for the bench and bar. This is such a case. I would reverse.

MARKMAN, J., joins the statement of ZAHRA, J.

² *Hoffner v Lanctoe*, 492 Mich 450, 461 (2012).



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 23, 2016

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk